

**SUPREME COURT OF KENTUCKY**

**DISCRETIONARY REVIEW GRANTED**  
(Pending Cases Only)

**DISCRETIONARY REVIEW GRANTED 6/17/09 AND  
CROSS-MOTION GRANTED 8/19/09**

Schnuerle v. Insight Communications Company, L.P.,  
2008-SC-789-DG and (Cross-Motion) Insight Communications Company,  
L.P. v. Schnuerle, 2009-SC-390-DG

Contracts. Arbitration. Issues include the validity of mandatory dispute  
resolution contract clauses barring consumer class actions.

Oral argument-October 2010 and February 2012

**DISCRETIONARY REVIEW GRANTED 8/18/10**

Barker v. Commonwealth, 2010-SC-116-DG

Probation Revocation. The issue is whether the trial court properly revoked  
the defendant's probation based on his arrest for another felony prior to  
any conviction for said felony.

Oral argument-May 2011

**DISCRETIONARY REVIEW GRANTED 9/15/10**

Commonwealth v. Jones, 2010-SC-123-DG

Criminal Law. Probation Revocation. Self Incrimination. Use Immunity. The  
issue is whether the trial court's failure to continue the probation revocation  
hearing until the Commonwealth obtained a conviction on the new  
substantive offense which was the basis for requesting revocation or  
alternatively grant the defendant "use immunity" unconstitutionally forced  
the defendant to choose between asserting his right against self  
incrimination and his right to present a meaningful and complete defense.

Oral argument-May 2011

### **DISCRETIONARY REVIEW GRANTED 10/13/10**

State Farm Mutual Auto Insurance v. Baldwin, 2010-SC-144-DG

Uninsured Motorist Coverage. The issue is whether a tarp hitting a truck is a “strike” covered by the uninsured motorist policy.

Oral argument-August 2011

### **DISCRETIONARY REVIEW GRANTED 12/8/10**

Hashmi v. Kelly, 2009-SC-0843-DG

Medical Malpractice. Expert Witnesses. Witness Disclosure. Issues include the admissibility of expert witness testimony by the defendant where the plaintiff took expert’s deposition but defendant failed to disclose his intent to utilize deposition as expert testimony.

Oral argument-October 2011

Garnett Gibson, etc., v. Fuel Transport , Inc., and Fuel Transport, Inc. v. Gibson, 2010-SC-72-DG & 2010-SC-682-DG

Negligence. Personal Injury. Damages. This case involves a collision between a car and a coal truck. The issues include: 1. Whether punitive damages are available; 2. Whether the damages awarded by the jury were excessive; 3. Whether juror misconduct warrants a new trial; 4. Whether the trial court gave erroneous jury instructions and the objections to these instructions were not waived; 5. Whether the trial court erred by failing to change venue; 6. Whether a party has waived the right to challenge errors related to compensatory damages, and 6. Whether the trial court erred by awarding post-judgment interest at 12%.

Oral argument-November 2011

### **DISCRETIONARY REVIEW GRANTED 1/14/11**

Bonar, et. al. v. Waite, Schneider, Bayless, & Chesley, et. al, 2010-SC-87-DG

Class Action Litigation. Attorneys’ Fees. The issues include whether and to what extent a former class action co-counsel is entitled to recover fees following settlement of the class action lawsuit.

Oral argument-September 2011

Reynolds v. Safeco Insurance Company of Illinois, 2010-SC-665-DG  
Uninsured Motorist Coverage. The issue is whether a naturally occurring condition, specifically a chunk of ice allegedly breaking off of a truck and smashing the insured's windshield, is a "hit" covered by the insured's motor vehicle insurance policy.

Oral argument-August 2011

### **DISCRETIONARY REVIEW GRANTED 3/16/11**

Kentucky Southern Coal Corporation v. Kentucky Energy and Environment Cabinet, 2010-SC-29-DG

Administrative Agency Law. Issues include whether the Cabinet acted arbitrarily in denying Kentucky Southern Coal Corporation's application to renew a mining permit for certain land.

Oral argument-February 2012

Ky. Unemployment Insurance Commission v. Cecil, 2010-SC-349-DG  
Unemployment Benefits. KRS 341.370(6). The issues are: 1. Whether the "willful and wanton" standard still applies to specific misconduct enumerated under KRS 341.370(6), and 2. Whether the Water Company's instruction to Cecil to sign a "last chance" employment agreement was reasonable.

Oral argument-November 2011

### **DISCRETIONARY REVIEW GRANTED 4/13/11**

Stilger v. Flint, 2010-SC-120-DG

Immunity. Defamation. The issue is whether statements made in response to a request the Attorney General investigate a case are subject to an absolute or qualified privilege where a party alleges defamation.

Cox v. Commonwealth, 2010-SC-733-DG

Criminal Law. Ineffective Assistance of Counsel. The question presented is whether the ineffective assistance logic concerning deportation circumstances in Padilla v. Kentucky, 130 S.Ct. 1473 (2010) extends to alleged misadvice of guilty plea counsel as to the impact of the sex offender treatment program upon parole eligibility.

Oral argument-March 2012

Wade v. Pomo Glass & Specialty Windows, 2010-SC-572-DG

Statute of Limitations. Judgments. Issues include how broadly to construe the word “execution” as used in KRS 413.090, the statute of limitations applicable to judgments.

Oral argument-November 2011

### **DISCRETIONARY REVIEW GRANTED 5/11/11**

Commonwealth v. Pridham, 2011-SC-126-DG

Criminal Law. Ineffective Assistance of Counsel. Issues include whether erroneous advice concerning parole eligibility may constitute ineffective assistance of counsel under *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010).

Oral argument-March 2012.

Stiger v. Commonwealth, 2008-SC-864-DG

Criminal Law. Ineffective Assistance of Counsel. Issues include whether erroneous advice concerning parole eligibility may constitute ineffective assistance of counsel under *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010).

Bolton v. Irvin, 2010-SC-520-DG

Criminal Law. Bond. The issues are: 1. whether a district court may increase a defendant’s bond following a finding of probable cause particularly where the defendant has remained in custody because he cannot afford the initial bond and 2. whether the district court must hold an adversarial hearing prior to changing the defendant’s bond.

Oral argument-February 2012

Osborne v. Keeney & Keeney v. Osborne, 2010-SC-397-DG & 2010-SC-430

Legal Malpractice. Emotional Distress. Damages. Issues include: 1. Whether a physical touching is still required for a Plaintiff to recover emotional distress damages; 2. Whether a Plaintiff may recover “lost punitive” damages in a legal malpractice claim; 3. Whether CR 8.01 limits the damages a Plaintiff may recover; 4. Whether and how a Plaintiff may file an Amended Complaint to include the Defendant’s insurance company; 5. Must the trial court instruct the jury on and must the jury make findings on the “case-within-a-case;” 6. Did the trial court err by using “should have realized” language in the fraud instruction, and 7. Did the Court of Appeals, by affirming in part and reversing in part, create an unconstitutional ratio

between compensatory and punitive damages such that the punitive award is now excessive?

Oral argument-December 2011

**DISCRETIONARY REVIEW GRANTED 3/16/11 and CROSS MOTION GRANTED 5/11/11**

Cunningham v. Whalen, 2010-SC-564-DG and 2011-SC-174-DG  
Open Meetings Act. Litigation Exception. Issues include whether the litigation exception to the Open Meeting Act's requirements applies where a zoning decision is the focus of the litigation.

Oral argument-May 2012

**DISCRETIONARY REVIEW GRANTED 6/8/11**

Guzman v. Commonwealth of Kentucky, 2010-SC-415 -DG  
Search and Seizure. Issue is the breadth of the "protective sweep" exception to the search warrant requirement.

Oral argument-April 2012

Ping, Executrix v. Beverly Enterprises, Inc., 2010-SC-558-DG  
Contracts. Arbitration. Issues involve the validity of an arbitration agreement signed pursuant to a general power of attorney for a relative contemporaneously with the relative's admission into a nursing home.

Oral argument-February 2012

**DISCRETIONARY REVIEW GRANTED 4/13/11 AND CROSS MOTION GRANTED 6/8/11**

Commonwealth v. Hasch, 2010-SC-494-DG & 2011-SC-232  
Criminal law. Self-defense. Jury Instructions. Immunity. The issues include: 1. whether the Commonwealth can introduce evidence of a defendant's opportunity to escape the victim in a self-defense case, thus permitting the court to instruct on lesser degrees of murder over the defendant's objection; 2. Whether the lower court erred by admitting the autopsy report as a Commonwealth exhibit; 3. Whether the lower court erred by excluding two defense witnesses; 4. Whether the jury instructions in the guilt and penalty phases were erroneous; and 5. Whether the lower court erred by

failing to hold a probable cause hearing when Hasch sought immunity from prosecution under KRS 503.085.

Oral argument-March 2012.

### **DISCRETIONARY REVIEW GRANTED 8/17/11**

Meyers v. Commonwealth, 2010-SC-000515-DG

Marital evidentiary privilege. KRE 504(c)(2)(a). Issues include the breadth of coverage of the marital evidentiary privilege and the extent to which evidence from other charges may be introduced in trial of charges contained in the same indictment but severed for trial.

Norton Hospitals, Inc. v. Peyton, 2010-SC-818-DG **and** Neonatal Intensive Care Experts II, PLLC v. Peyton, 2010-SC-819-DG

Statutory Immunity. Negligence. The primary issue is whether a hospital and its employees have statutory immunity under KRS 620.030 and 620.050 where a mother's blood alcohol level may have been misreported to Child Protective Services.

Oral argument-April 2012

Miller v. Commonwealth, 2011-SC-30-DG

Criminal law. Probation Revocation. Sex Offender Treatment Program. Impossibility. The issue is the appropriate remedy where the trial court ordered the defendant to two years probation and probation and parole ordered the defendant to complete the Sex Offender Treatment Program; however, due to the length of the program, the defendant cannot complete the program prior to the expiration of his probation.

Oral argument-June 2012

Tucker v. Women's Care Physicians of Louisville, P.S.C., 2010-SC-466-DG

Medical malpractice. Evidence. Issue is whether the trial court abused its discretion in excluding certain expert testimony as irrelevant.

Oral argument-March 2012.

Commonwealth v. Kentucky Retirement Systems, 2010-SC-809-DG

Sovereign Immunity. Declaratory Judgment. State Employee Retirement Benefits. The issue is whether the Commonwealth can invoke sovereign immunity in any declaratory judgment action.

Oral argument-March 2012.

**DISCRETIONARY REVIEW GRANTED 9/14/11**

Commonwealth v. Reed, 2011-SC-111-DG

Criminal law. Guilty plea. Sentencing. Fines. KRS 534.030. Issues include whether in the case of an unenforceable bargained-for plea agreement an appellate court may vacate part of the sentence or whether the entire judgment and sentence of conviction must be set aside.

Oral argument-March 2012.

National Union Fire Insurance Co. v. Pike County Board of Education, 2010-SC-827-DG

Insurance. The issues involve interpretation of policy provisions regarding the effect of the delayed reporting of a claim under “claims based” policies with discrete coverage periods but when viewed together provide continuous coverage to the insured.

Oral argument-May 2012

**DISCRETIONARY REVIEW GRANTED 6/8/11 and CROSS MOTION GRANTED 9/14/11**

Savage v. Three Rivers Medical Center, 2010-SC-478-DG and (Cross Motion) Three Rivers Medical Center v. Savage, 2011-SC-348-DG

Torts. Medical Malpractice. Issues include whether the evidence sufficed to create a jury question relating to a surgical sponge left in a patient’s abdomen when the patient had undergone multiple previous surgeries in that area of the body.

Oral argument-May 2012

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 9/14/11**

Acosta v. Commonwealth, 2011-SC-097-DG

Criminal law. Criminal abuse. Burden of proof. KRS 508.100. Issues include sufficiency of the evidence to support a guilty verdict under KRS 508.100.

**DISCRETIONARY REVIEW GRANTED 3/16/11 and CROSS MOTION GRANTED 10/19/11**

Commonwealth v. Steadman, 2010-SC-326-DG and (Cross Motion)  
Steadman v. Commonwealth, 2011-SC-508-DG

Criminal Law. Restitution. Jurisdiction. The questions presented include whether a defendant can consent to a delay in a restitution hearing and disposition beyond ten days after entry of final judgment.

**DISCRETIONARY REVIEW GRANTED 10/19/11**

Abel v. Austin, 2010-SC-426-DG

Legal Malpractice. Statute of Limitations. Choice of Laws. Summary Judgment. This case involves alleged malpractice by attorneys involved in Fen-Phen litigation. The issues include whether the Alabama or Kentucky statute of limitations applies; whether the claims are legal malpractice or fraud, and whether the trial court properly granted summary judgment against all Plaintiffs.

Oral argument-April 2012

**DISCRETIONARY REVIEW GRANTED 11/16/11**

Frazier v. Commonwealth, 2011-SC-283-DG

Criminal Law. Search and Seizure. Issues include the proper scope and application of *Terry v. Ohio* and *Arizona v. Gant*.

Edwards v. Harrod, 2010-SC-770-DG

Juvenile. Youthful Offenders. Violent Offender Statute. The question presented is whether Violent Offender Statute KRS 439.3401 applies to a "youthful offender" upon probation revocation so as to bar the requirement of serving 85% of a sentence prior to parole consideration.

Hale v. Commonwealth, 2011-SC-115-DG

Criminal Law. Sex Offenses. Unlawful Transaction with a Minor. The issues include whether a defendant who commits a sex offense with a minor can be convicted of Unlawful Transaction with a Minor rather than the substantive sexual offense. The Court is invited to re-visit its ruling in Young v. Commonwealth, 968 S.W.2d 670 (Ky. 1998)

Oral argument-August 2012.



Newton v. University of Louisville, 2010-SC-782-DG

Sovereign Immunity. Breach of Contract. The issues include what type of contract, if any, U of L's personnel policies and employee handbook create between U of L and its employees. And, if these documents create a contract, is that contract sufficient under KRS 45A.245 so as to waive U of L's right to sovereign immunity.

Oral argument-May 2012

Furtula v. University of Kentucky, 2011-SC-332-DG

Sovereign Immunity. Breach of Contract. The issues include what type of contract, if any, UK's personnel policies and employee handbook create between UK and its employees. And, if these documents create a contract, is that contract sufficient under KRS 45A.245 so as to waive UK's right to sovereign immunity.

Oral argument-May 2012

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**11/16/11**

Department of Revenue v. Cox Interior, Inc., 2010-SC-794-DG

Taxation. At issue is whether the erroneous portion of an ad valorem tax assessment on tangible personal property may be refunded although the taxpayer failed to protest the assessment before paying it.

**DISCRETIONARY REVIEW GRANTED 9/14/11 and CROSS MOTION**  
**GRANTED 11/16/11**

Ballard v. 1400 Willow Council of Co-Owners, Inc., 2010-SC-533-DG and  
(Cross Motion) 1400 Willow Council of Co-Owners, Inc. v. Ballard, 2011-  
SC-584-DG

Torts. Slander of Title and Negligence. Issues involve the timeliness of the slander of title claim and the extent of duty owed by a condominium council with regard to an owner's alleged responsibility to replace a multi-story bay window structure.

Oral argument-August 2012

**DISCRETIONARY REVIEW GRANTED 12/14/11**

Department of Revenue v. Wade, 2011-SC-95-DG

Employment Law. Termination. The issue is whether a state employee who requested a pre-termination hearing after receiving notice of termination waives said hearing by repeatedly engaging in conduct that delays the hearing.

Oral argument-June 2012

Roach v. Commonwealth, 2011-SC-141-DG

Criminal Law. RCr 11.42. Time for Filing. The issue is whether appointed post conviction counsel must file their supplement to the defendant's original *pro se* pleading within three years after the judgment becomes final.

Dick's Sporting Goods, Inc. v. Webb, 2011-SC-518-DG and Shelton v. Kentucky Easter Seals Society, Inc., 2011-SC-554-DG)

Torts. Open and Obvious Doctrine. At issue is whether summary judgment for the defendant was granted properly under *Kentucky River Medical Center v. McIntosh*, 319 S.W.3d 385 (Ky. 2010).

Oral argument-August 2012

Abbott v. Chesley, 2011-SC-291-DG

Torts. Fen-Phen Litigation. Issues include whether plaintiffs were entitled to summary judgment regarding alleged breaches of attorneys' fiduciary duty.

Oral argument-June 2012

Gingerich v. Commonwealth, 2011-SC-379-DGE

and Zook v. Commonwealth, 2011-SC-380-DGE

Criminal Law. State Constitutional Law. In cases involving failure to display a KRS 189.820 "slow moving vehicle" emblem on Old Order Swartzentruber horse-drawn buggies, issues involve whether KY. CONST. §§ 1 & 5 provide greater religious protection than does the First Amendment to the United States Constitution.

Oral argument-March 2012.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**12/14/11**

Commonwealth v. Abnee, 2011-SC-507-DG

Criminal Law. Jury Deliberations. The question is whether a defendant is entitled to examine jurors in seeking a new trial grounded upon a juror's letter, unsupported by affidavit, regarding alleged impropriety in deliberations.

### **DISCRETIONARY REVIEW GRANTED 2/15/12**

Webb v. Meyer, 2011-SC-145-DG

School Law. The issue involves the definition of a "reduction in force" as used in KRS 161.011(8).

N.C. v. Commonwealth, 2011-SC-271-DG

Juvenile Law. Custody. Miranda. The issue is whether a juvenile's incriminating statements are admissible where the school's assistant principal questioned the juvenile about criminal conduct in the presence of a school resource officer, who was also a deputy sheriff, without giving the juvenile Miranda warnings or telling the juvenile he was free to leave the office, refuse to answer questions, or free to call his legal guardian.

Jarvis v. National City, 2011-SC-135-DG

Testamentary Trusts. Trustee Fees. Retroactivity. The issue is whether the 2008 repeal of KRS 386.180 applies to testamentary trusts which were created prior to 2008.

Oral argument-September 2012

Barnes v. Commonwealth, 2011-SC-325-DG

Criminal Law. Evidence. Issues include whether the admission of an eye-witness identification and evidence concerning a partial fingerprint denied the defendant due process.

Flick v. The Estate of Christina Wittich, 2010-SC-664-DG

Appellate Procedure. Notice of Appeal. Issues include whether the Court of Appeals properly dismissed a notice of appeal that named only the decedent's estate but was served on the co-executors.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 2/15/12**

Ford v. Perkins, 2011-SC-330-DG

Marriage Dissolution. Marital Property Division. Issues include: whether marriage, alone, supports an equal division of property acquired during the marriage and whether the evidence compelled an equal division.

Commonwealth v. Morseman, 2011-SC-167-DG

Criminal Law. Restitution. Fraudulent Insurance Acts. The issue is whether a trial court may order a defendant to pay restitution in an amount greater than the amount of actual loss incurred from the defendant's illegal conduct for which he was convicted.

Browning v. Preece, 2011-SC-459-DG

Appellate Procedure. Indispensable Parties. In this dispute over the width and measurement of an easement across the property of neighboring landowners, the question is whether defendant landowners were indispensable parties on an appeal by the neighboring defendant landowner.

**DISCRETIONARY REVIEW GRANTED 3/14/2012**

Ft. Mitchell Country Club v. LaMarre, 2011-SC-665-DG

Torts. Dram Shop Act. Issues include: whether statutory violations other than the sale of alcohol to a minor deprive a dram shop of the Act's protection; and whether intent to hold intoxicated tortfeasors primarily liable and licensed alcohol sellers only secondarily liable survives Taylor v. King, 345 S.W.3d 237(Ky. App. 2010).

Commonwealth v. Hawkins, 2011-SC-159-DG

Criminal Law. Search and Seizure. Emergency Aid Exception. Issues include the breadth of the "emergency aid" exception to the search warrant requirement.

Walker v. Blair, 2012-SC-4-DGE

Grandparent Visitation. Issues involve evidentiary sufficiency and application of cases including *Troxel v. Granville*, 530 U.S. 57 (2000) and *Vibbert v. Vibbert*, 144 S.W.3d 292 (Ky. App. 2004).

Oral argument-August 2012

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT  
3/14/2012**

Commonwealth v. Martin, 2011-SC-616-DG

Criminal Law. Self-Representation. Issues include whether defendant's *pro-se* motions and the rulings thereon constituted an unequivocal request for self-representation that required a Faretta hearing.

Taylor v. Kentucky Unemployment Insurance Commission,  
2011-SC-346-DG

Unemployment Benefits. Procedure. The issue is whether the Court should permit a party to file an Amended Complaint in order to satisfy the verification requirement in KRS 341.450.

**DISCRETIONARY REVIEW GRANTED 2/15/12 and CROSS MOTION  
GRANTED 4/18/12**

Webb v. Meyer, 2011-SC-145-DG **and** (Cross Motion) Meyer v. Webb,  
2012-SC-113-DG

Employment Law. State Employees. The issue involves the definition of a "reduction in force" as used in KRS 161.011(8) and what, if any, damages to which the employee may be entitled.

**DISCRETIONARY REVIEW GRANTED 4/18/12**

J P Morgan Chase Bank v. Bluegrass Powerboats, 2011-SC-668-DG

Arbitration. Issues include whether a trial court, having stayed a civil action and ordered arbitration, retains authority to vacate that order after the arbitrator has dismissed the claim "with prejudice."

Grubb v. Norton Hospitals, Inc., 2010-SC-532-DG

Jury Selection. Agency. Evidence Admissibility. The issues include: whether the trial court erred by failing to strike three jurors for cause; whether the trial court erred by entering summary judgment on agency issues, and whether the trial court erred by failing to allow the plaintiffs to introduce evidence that the doctors and hospital were covered by the same liability insurance.

Commonwealth v. Ousley, 2011-SC-403-DG

Criminal Law. Search and Seizure. Garbage. The issue is when a police officer may lawfully seize and search a suspect's trash.

City of Lebanon v. Goodin, Trustee, 2011-SC-468-DG  
Municipal Corporations. Annexation. Issues involve application of the KRS 81A.410 contiguity mandate.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**4/18/12**

Samons, Administratrix v. Kentucky Farm Bureau Mutual Insurance Company, 2011-SC-414-DG  
Insurance. Motor Vehicle. Basic Reparation Benefits. Issues involve responsibility for paying basic reparation benefits on behalf of an uninsured rider on horseback injured in a collision with an uninsured motor vehicle driven by an insured. Specifically, can that driver's insurer be excluded from responsibility for paying BRBs, to be covered instead through the Assigned Claims Plan?

MHC Kenworth-Knoxville/Nashville v. M&H Trucking, LLC, 2011-SC-441-DG  
Contracts. Arbitration. Issues involve the enforceability of an arbitration provision in a truck sales contract governed by the Federal Arbitration Act.

Lewis v. Commonwealth, 2011-SC-395-DG  
Criminal Law. Burglary. Jury Instructions. Issues include interpretation of KRS 511.090(2) "entering or remaining unlawfully in a building" and whether the jury was properly instructed on the definition of "deadly weapon."

**DISCRETIONARY REVIEW GRANTED 3/14/12 and CROSS MOTION**  
**GRANTED 5/16/12**

Commonwealth v. Hawkins, 2011-SC-159-DG and (Cross Motion) Hawkins v. Commonwealth, 2012-SC-187-DG  
Criminal Law. Search and Seizure. Emergency Aid Exception. Issues include the breadth of the "emergency aid" exception to the search warrant requirement.

**DISCRETIONARY REVIEW GRANTED 5/16/12**

Board of Education of Fayette County v. Hurley-Richards,  
2011-SC-599-DG

School Law. Issues include whether KRS 161.790(1)(b) “conduct unbecoming a teacher” can include use of allegedly excessive physical force against a second-grader.

Stinson v. Commonwealth, 2011-SC-615-DG

Criminal Law. Sexual Abuse I. Issues include whether lack of consent is an element of the crime defined in KRS 510.110(1)(d) as including (effective July 15, 2008) sexual contact by a person in a position of authority or special trust with a minor less than 18 years old.

Patel v. Tuttle Properties, LLC, 2011-SC-415-DG

Contracts. Damages. Issues involve the reasonableness of the forfeiture of the \$125,000 earnest money deposit for the buyer’s breach of a \$450,000 contract for sale of a convenience store.

Garcia v. Whitaker, 2011-SC-550-DG

Abuse of Process. KRS 376.270. Issues include whether a claim for abuse of process was properly dismissed, and whether such a claim can defeat the mechanics' lien created by KRS 376.270.

Whitley v. Robertson County, 2011-SC-612-DG

County Roads. KRS Ch. 178. Issues include the authority of circuit courts to determine whether county roads were legally established and the correct procedure to make that determination.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**5/16/12**

Commonwealth v. Bonner, 2011-SC-555-DG

Criminal Law; indigency. CR 60.02; KRS Ch. 31. Issues include whether failure to file a response to a motion for CR 60.02 relief in the trial court constitutes a waiver of issues on appeal, and the authority of the trial court to rescind its prior orders granting indigent status.

**DISCRETIONARY REVIEW GRANTED 6/13/2012**

City of Fort Thomas v. Cincinnati Enquirer, 2011-SC-725-DG

Open records. Privacy exception. Issues include whether disclosure of a law enforcement agency's investigative file before a criminal prosecution is complete constitutes "harm" as a matter of law under KRS 61.878(1)(h) and whether the statute requires law enforcement agencies to monitor prosecutors' decisions to disclose information from an investigative file.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**3/14/2012 AND CROSS-MOTION GRANTED 6/13/2012**

Commonwealth v. Martin, 2011-SC-616-DG and (Cross-motion) Martin v. Commonwealth, 2012-SC-190-DG

Criminal Law. Self-Representation. Issues include whether defendant's *pro-se* motions and the rulings thereon constituted an unequivocal request for self-representation that required a Faretta hearing.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**  
**6/13/12**

Turner v. Andrew, 2011-SC-614-DG

Civil Procedure. CR 17.01. Issues include whether an individual or a limited liability company is the real party in interest.

Kentucky Retirement Systems v. West, 2011-SC-471-DG

Disability Benefits. Issues include the proper application of *Kentucky Retirement Systems v. Brown*, 336 S.W.3d 8 (Ky. 2011) to the burden of proof standard a person seeking disability retirement benefits must satisfy to show that his condition did not pre-exist membership in the retirement system.

Central Bank v. Gill, 2011-SC-442-DG

Contract Law. Trial Commissioner. Issues include whether the terms of an oral agreement which was discussed on the record at a trial commissioner hearing indicated a sufficient meeting of the minds to be binding on the parties.

Linden v. Griffin, 2011-SC-422-DG

Arbitration. Contract Law. Issues include whether an arbitration clause is binding upon a signatory when that individual claims he was fraudulently induced enter into contract containing the clause.



**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT**

**8/15/12**

Commonwealth v. Goss, 2011-SC-000780-DG

Criminal Law. Directed Verdict. Issues include whether the Commonwealth presented sufficient circumstantial evidence to withstand the defendant's motion for a directed verdict.







